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**TRANSMITTAL LETTER
(General - Patent Pending)**

Docket No.
18695

In Re: Application Of: **Guenter Wanschura, et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/550,845 ✓	September 23, 2005	Unassigned	23389	Unassigned	Unassigned

Title: **GEAR PUMP AND HOLDING ELEMENT FOR SAME**

COMMISSIONER FOR PATENTS:

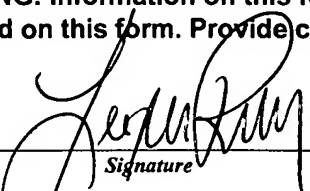
Transmitted herewith is:

CORRESPONDENCE ENCLOSING TRANSLATION OF INTERNATIONAL PRELIMINARY EXAMINATION REPORT.

in the above identified application.

- ☒ No additional fee is required.
- ☐ A check in the amount of _____ is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **19-1013/SSMP** as described below.
- ☐ Charge the amount of _____
- ☒ Credit any overpayment.
- ☒ Charge any additional fee required.
- ☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

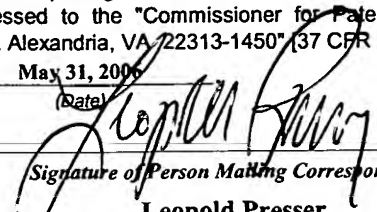

Signature

Dated: **May 31, 2006**

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on	
May 31, 2006	(Date)
	
Signature of Person Mailing Correspondence	
Leopold Presser	
Typed or Printed Name of Person Mailing Correspondence	



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Guenter Wanschura, et al.

Examiner: Unassigned

Serial No.: 10/550,845

Art Unit: Unassigned

Filed: September 23, 2005

Docket: 18695

For: GEAR PUMP AND HOLDING
ELEMENT FOR SAME

Dated: May 31, 2006

Confirmation No.: Unassigned

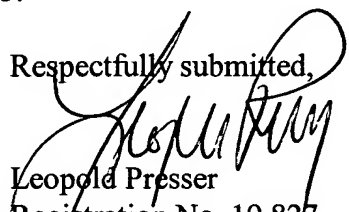
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

CORRESPONDENCE

Sir:

Submitted herewith is a translation of the International Preliminary Examination Report, which was submitted on September 23, 2005.

Respectfully submitted,

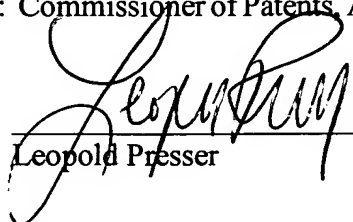

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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

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Dated: May 31, 2006


Leopold Presser

PATENT COOPERATION TREATY

Translation

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing
(day/month/year)

Applicant's or agent's file reference

P27727/WO Kf

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2004/003186

International filing date (day/month/year)

25. 03. 2004

Priority date (day/month/year)

03. 06. 2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

BRUENINGHAUS HYDROMATIK GMBH

1. This opinion contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input checked="" type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input checked="" type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input checked="" type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> | Box No. VIII | Certain observations on the international application |

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

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Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language
_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in the international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

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Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

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Box No. IV

Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has:
- ☒ paid additional fees
 - ☐ paid additional fees under protest
 - ☐ not paid additional fees
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:

See supplemental sheet

4. Consequently, this opinion has been established in respect of the following parts of the international application:

- ☒ all parts
- ☐ the parts relating to claims Nos. _____

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	<u>2, 4-20, 22-28</u>	YES
	Claims	<u>1, 3, 21</u>	NO
Inventive step (IS)	Claims	<u>2, 4-14, 23-28</u>	YES
	Claims	<u>1, 3, 15-22</u>	NO
Industrial applicability (IA)	Claims	<u>1-28</u>	YES
	Claims	<u></u>	NO

2. Citations and explanations:

See supplemental sheet

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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

See supplemental sheet

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

See supplemental sheet

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INTERNATIONAL SEARCHING AUTHORITY

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Reference is made to the following documents:

- D1: US-A-3 315 608 (OTTO ECKERLE) 25 April 1967
(1967-04-25)
- D2: US-A-4 978 266 (BECKER KLAUS ET AL.)
18 December 1990 (1990-12-18)
- D3: US-A-5 907 891 (MEYER CHARLES) 1 June 1999
(1999-06-01)

1. This Examining Authority has determined that the international application contains a number of inventions or groups of inventions which are not linked by a single general inventive concept (PCT Rule 13.1), namely:

- I: Claims 1-20: Gear pump with a retaining member in the pump cover.
- II: Claims 21-28: Retaining member having a cylindrical sub-body and an adjoining conical sub-body.

The reasons are as follows.

Claims 1-20 relate to a gear pump with a retaining member in the pump cover. The special technical feature of this first group is the retaining member, which is retained in the pump cover and releases the closure plate in the finally assembled state.

Claims 21-28 relate to a retaining member with a

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cylindrical sub-body and an adjoining conical sub-body. The special technical feature of these claims is the conical sub-body.

The problem addressed by the first group can therefore be considered that of creating a gear pump which allows simplified assembly.

The problem addressed by the second group can therefore be considered that of creating a retaining member with improved retaining properties.

There is no technical relationship as required in PCT Rule 13.2 because the special technical features are not the same and do not correspond to one another. The inventions described in claims A-Z thus do not realize a single common inventive concept, and the requirement of PCT Rule 13.1 has not been met.

2. The subject matter of independent claim 1 is not novel (PCT Article 33(2)).

Document D1 discloses (see figure 3) a gear pump having a pump cover 4, an inner rotor 2, which is arranged such that it can be rotated in a recess of the pump cover 4 and is designed such that it can be fixed in terms of rotation on a driveable plug-in shaft 1, and an outer rotor 3, which is arranged such that it can be rotated in the recess of the pump cover 4, eccentrically in relation to the axis of rotation of

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the inner rotor 2, in such a manner that the outer rotor 3 engages with the inner rotor 2 only in a first angle-of-rotation range, and in a second angle-of-rotation range, which is located opposite the first angle-of-rotation range, it is in contact with an inner surface of a crosspiece 6 which is arranged in the recess and, in turn, is in contact, on its outer surface, with the outer rotor 3, with the result that, once the recess has been closed by a closure plate 9, an admission-pressure chamber and a low-pressure chamber form in the recess, a retaining member 10, which is retained in the pump cover 4, retaining the closure plate 9 at a fixed angle of rotation on the pump cover 4 in the preassembled state of the gear pump.

All the features of claim 1 are thus known from D1.

3. Dependent claims 3 and 15-20 do not appear to contain any additional features which, in combination with the features of any claim to which they refer back, could give rise to a subject matter which is novel and involves an inventive step (PCT Article 33(2) and (3)).

- 3.1 The additional features of dependent claim 3 are already known from document D1.

- 3.2 The additional features of dependent claims 15-20

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are a matter of common practice in the art and cannot form any basis for an inventive step.

4. As is explained hereinbelow, some of the features in device claim 1 relate to a method of using the device rather than to the definition of the device with reference to its technical features. Contrary to the requirements of PCT Article 6, the intended restrictions thus cannot be clearly gathered from the claim.

The expressions "in the preassembled state" and "a retaining member retains the closure plate" indicate an assembly method for the gear pump.

5. The subject matter of independent claim 21 is not novel (PCT Article 33(2)).

Document D2 discloses (see figure 1) a retaining member having a cylindrical sub-body 2.2 which can be introduced into a recess 8 of a first object 7, with radial prestressing being developed in the process, so as to produce a force-fitting connection between the retaining member and the first object (see column 2, lines 56-59), and having a conical sub-body 2.4 which adjoins the cylindrical sub-body 2.2 and, in a first assembly state, is guided through a recess of a second object 3 and comes into contact with the recess of the second object such that the retaining member realizes a form-fitting connection between the first object and the second object.

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6. Dependent claim 22 does not appear to contain any additional features which, in combination with the features of any claim to which it relates back, could give rise to a subject matter which is novel and involves an inventive step (PCT Article 33(2) and (3)) because the additional features of dependent claim 22 are already known from document D3.
7. The subject matter of claims 1 to 28 is industrially applicable.
8. The applicant is also referred to the following points:
 - a) The description does not cite documents D1 to D3 or include any brief description of the relevant prior art contained therein.
 - b) In contrast to the requirements of PCT Rule 11.13(m), the reference signs are not consistent throughout the entire application. For example, reference sign 33 is used both for the retaining member and for an annular recess (see page 7, line 34 and line 36). In figures 1, 5A, 5B and 5C, the reference sign 33 also refers to different parts.
 - c) The statement on page 11, lines 24-27 of the

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description creates the impression that the subject matter for which protection is sought does not correspond to the subject matter defined in the claims, and this therefore leads to a lack of clarity (PCT Article 6) when the description is used to interpret the claims (cf. PCT Examination Guidelines paragraph III-4.3(a)).